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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/054,952

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James W. McCaherty

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EXAMINER

FISHER, MICHAEL J

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/054,952	<b>Applicant(s)</b> MCCAHERTY, JAMES W.	
	<b>Examiner</b> MICHAEL J. FISHER	<b>Art Unit</b> 3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3,6,8,10-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 6,826,552 to Grosser et al. (Grosser) in view of US PAT 6,041,311 to Chislenko et al. (Chislenko).

As to claims 1,23,27,38 and 39, Grosser discloses a method for referring a prospective customer to prospective automobile dealers including prompting the customer to enter customer information and receiving it (col 27, lines 23-25), querying a database using the information (title), the database including dealer information about a plurality of dealers and reporting the information to the customer (col 28, lines 59-60).

Grosser does not, however, teach contact information about prior contacts between the customer and the dealer. Grosser does teach saving information from

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previous searches (col 29, lines 16-18) but does not teach a plurality of types of contacts.

Chislenko teaches a method and system for recommendation using automation that includes checking for prior contacts, these contacts could be sales, service or parts sales, between the user and a business (col 4, lines 1-13) and provides recommendations based on those ratings (col 11, lines 12-24). The system would be used for more than one customer.

As to claim 20, Grosser discloses a central server (fig 3), a processor (330, fig 3), a database (313, fig 3) and means for transmitting information (inherent in that the information is transmitted).

As to claims 2,3,24,25 the information includes the customer's name and address (col 27, lines 59-60).

As to claim 26 it would be obvious to include a plurality of contacts if there were a plurality so as to have complete information.

As to claims 6,8,9,33, it would be obvious to record that a customer had purchased a vehicle from a dealer or had service there and put that dealer at the top of the list as the customer would have an opinion on that dealer, whether favorable or unfavorable.

As to claims 10,28 a list of automobiles nearest the customer are returned (col 28, lines 57-59), the system would be used for more than one prospective customer. There is no teaching in either Grosser or Chislenko to teach that the prospective customer must have had prior contact, thereby meeting the limitations as claimed.

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As to claims 11,29 the results are inherently divided into a plurality of sets (geographical region, col 28, lines 57-59).

As to claims 12,30 it would be obvious to include the prior contact with each set.

As to claims 13,31, each set is viewed one at a time (by geographical region).

As to claims 14,32, it would have been obvious to one of ordinary skill in the art to have a link to another set of options as Grosser discloses a "reject" option (col 28, lines 65-66) for a set of options.

As to claim 15, it would be obvious to have the sets arranged in geographical order as that is how they are chosen.

As to claims 16,34 it is very well known to have maps displaying geographical region. Therefore, it would have been obvious to one of ordinary skill in the art to use a map to ease location selection.

As to claims 17,35 it would have been obvious to one of ordinary skill in the art to have directions to the dealer to make it easy for the customer to get to the chosen dealer.

As to claims 18,19,36 and 37 it would be obvious to one of ordinary skill in the art to list sets of dealers with the most recent prior contacts as these are the dealers the customer has shown an interest in.

As to claim 21, Grosser discloses a browser (304), having forms capabilities (figs 16a-k).

As to claim 22, the means is the Internet (fig 3).

***Response to Arguments***

Applicant's arguments filed 4/18/08 have been fully considered but they are not persuasive. As to applicant's statement that "It was agreed that the amended version of claim 1 that is presented herein distinguishes...". No such agreement was made and further, the amendment is minor and actually had been addressed in previous rejections, specifically, that it is old and well known to know if a person has a bad experience with a company before suggesting that they deal with them. This is not only old and well known, but common sense. If I will refuse to do business with someone, it would be a waste to suggest that I buy something from them. The use of prior contacts is disclosed in the prior art, as discussed, and therefore, merely using information gathered for an obvious step would not make the instant invention patentably distinct. The interview summary provided concurrently notes that applicant has agreed to amend the claims to avoid the rejection, the examiner does not agree that these current claims do so and further, as these claims were not provided at the time of the interview, the examiner disagrees that anything was agreed regarding the amended claims. From the arguments, the instant invention appears to be using previously known systems and adding in using whether the customer likes or dislikes the dealer to decide where to refer them, this would not render the instant invention patentably distinct.

As to arguments filed 11/19/08, the examiner recalls the interview differently, specifically, the examiner noted that the difference between "good and bad" contacts and "type of contacts" was "interesting" , the examiner tries to always use non-definitive words as subsequent searching or discussion with other examiners could prove them

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wrong, such is the case. While the specification states that the types of contacts are different from merely "good" and "bad", the claims make no such distinction. Further, as discussed above, the prior art teaches noting the geographical location and suggesting a business accordingly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL J. FISHER whose telephone number is (571)272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael J Fisher/  
Examiner, Art Unit 3689

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